

LEGISLATIVE BILL 259

Approved by the Governor February 27, 2002

Introduced by Wehrbein, 2

AN ACT relating to counties; to amend sections 13-518 and 13-519, Revised Statutes Supplement, 2001; to authorize license and occupation taxes as prescribed; to harmonize budget provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. A county may raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business engaged in the sale of admissions to recreational, cultural, entertainment, or concert events that are subject to sales tax under sections 77-2702.03 to 77-2713 that occur outside any incorporated municipality, but within the boundary limits of the county. The tax shall be uniform in respect to the class upon which it is imposed. The tax shall be based upon a certain percentage of gross receipts from sales in the county of the person, partnership, limited liability company, corporation, or business, and may include sales of other goods and services at such locations and events, not to exceed one and one-half percent. A county may not impose the tax on sales that are within an incorporated city or village. No county shall levy and collect a license or occupation tax under this section unless approved by a majority of those voting on the question at a special, primary, or general election.

Sec. 2. The county board shall submit the question of imposing a license or occupation tax under section 1 of this act to the registered voters at any primary or general election or at a special election if the county submits a certified copy of the resolution proposing the tax to the election commissioner or county clerk within a reasonable time prior to the primary, general, or special election. The question may include any terms and conditions set forth in the resolution proposing the tax, such as a termination date or the specific project or program for which the revenue will be allocated, and shall include the following language: Shall the county board impose a license or occupation tax upon any person, partnership, limited liability company, corporation, or business engaged in the sale of admissions to recreational, cultural, entertainment, or concert events within the county on which the State of Nebraska is authorized to impose a sales tax? If a majority of those voting on the question are in favor of the tax, then the county board shall be empowered to impose the tax and shall forthwith proceed to impose the tax. If a majority of those voting on the question are opposed to the tax, then the county board shall not impose the tax.

Sec. 3. The county board shall give notice of the submission of the question of imposing a license or occupation tax under section 1 of this act not more than thirty days nor less than ten days prior to the election, by publication one time in one or more newspapers published in or of general circulation in the county in which such question is to be submitted. The notice shall be in addition to any other notice required under the general election laws of this state.

Sec. 4. Whenever, at least forty-five days prior to any county or state election, the registered voters of the county, equal in number to ten percent of the votes cast at the last preceding county election, petition the county board to submit the question of imposing a license or occupation tax under section 1 of this act, the county board shall submit the question at the next primary, general, or special election.

Sec. 5. The question of imposing a license or occupation tax under section 1 of this act which has been submitted to the registered voters and failed shall not be submitted to the registered voters of the county again until twenty-three months after such failure.

Sec. 6. Section 13-518, Revised Statutes Supplement, 2001, is amended to read:

13-518. For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community

colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, ~~and~~ (h) the tax provided in sections 1 to 5 of this act beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-305.15 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3007, 77-27,136, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520, 47-119.01, 60-3001 to 60-3007, 77-27,136, and 77-3618, insurance premium tax paid to counties, and reimbursements to counties from the County Revenue Assistance Fund under section 29-3933;

(d) For community colleges, state aid to community colleges paid under sections 85-1536 to 85-1537.01;

(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136; and

(f) For educational service units, state aid appropriated under section 79-1241.

Sec. 7. Section 13-519, Revised Statutes Supplement, 2001, is amended to read:

13-519. (1) For fiscal years beginning on or after July 1, 1996, and before July 1, 1997, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus population growth plus two percent expressed in dollars. For cities of the first and second class and villages, restricted funds shall be reduced to take into account the fourteen-month fiscal year for 1995-96. For fiscal years beginning on or after July 1, 1997, and before July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus population growth expressed in dollars. For all fiscal years beginning on or after July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus allowable growth plus the basic allowable growth percentage of the base limitation established under section 77-3446. For all fiscal years beginning on or after July 1, 1998, and before July 1, 1999, the last prior year's total of restricted funds shall be the last prior year's total of restricted funds not excluding restricted funds budgeted for acquisition or replacement of tangible personal property with a useful life of five years or more in the last prior year or the year before the last prior year, whichever excluded the most, plus restricted funds budgeted to pay for lease-purchase contracts approved on or after July 1, 1997, and before July 1, 1998, to the extent the lease payments are not budgeted restricted funds for fiscal year 1997-98. For all fiscal years beginning on or after July 1, 2001, and before July 1, 2002, the last prior

year's total of restricted funds shall be the last prior year's total of restricted funds plus any amount budgeted to be received from the Natural Resources Enhancement Fund in fiscal year 1999-2000. For the second fiscal year in which a county will receive a full year of receipts from the tax imposed in sections 1 to 5 of this act, the prior year's total of restricted funds shall be the prior year's total of restricted funds plus the total receipts from the tax imposed in sections 1 to 5 of this act in the prior year. If a governmental unit transfers the financial responsibility of providing a service financed in whole or in part with restricted funds to another governmental unit or the state, the amount of restricted funds associated with providing the service shall be subtracted from the last prior year's total of budgeted restricted funds for the previous provider and may be added to the last prior year's total of restricted funds for the new provider. For governmental units that have consolidated, the calculations made under this section for consolidating units shall be made based on the combined total of restricted funds, population, or full-time equivalent students of each governmental unit.

(2) In addition to the increase allowed in subsection (1) of this section, for fiscal years beginning on or after July 1, 1998, and before July 1, 1999, a governmental unit may increase its budget of restricted funds no more than four percent to create or increase an existing qualified sinking fund or funds upon the affirmative vote of at least seventy-five percent of the governing body. Any unused authority granted in this subsection may not be carried forward under section 13-521.

(3) A governmental unit may exceed the limit provided in subsection (1) of this section for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

(4) A governmental unit may exceed the applicable allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the governing body or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the governmental unit. The recommendation of the governing body or the petition of the legal voters shall include the amount and percentage by which the governing body would increase its budgeted restricted funds for the ensuing year over and above the current year's budgeted restricted funds. The county clerk or election commissioner shall call for a special election on the issue within fifteen days after the receipt of such governing body recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the governing body. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

(5) In lieu of the election procedures in subsection (4) of this section, any governmental unit may exceed the allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting at a meeting of the residents of the governmental unit, called after notice is published in a newspaper of general circulation in the governmental unit at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the governmental unit shall constitute a quorum for purposes of taking action to exceed the allowable growth percentage. If a majority of the registered voters present at the meeting vote in favor of exceeding the allowable growth percentage, a copy of the record of that action shall be forwarded to the Auditor of Public Accounts along with the budget documents. The issue to exceed the allowable growth percentage may be approved at the same meeting as a vote to exceed the limits or final levy allocation provided in section 77-3444.

Sec. 8. Original sections 13-518 and 13-519, Revised Statutes Supplement, 2001, are repealed.